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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/864,120	05/24/2001	Kevin R. Holubar	AUS920010283US1	1468

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EXAMINER

SERROU, ABDELALI

ART UNIT	PAPER NUMBER
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2654

DATE MAILED: 07/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/864,120	Applicant(s) HOLUBAR ET AL.	
	Examiner Abdelali Serrou	Art Unit 2654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date. _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. In response to the office action from 02/02/2005, the applicant has submitted an amendment, filed on 5/04/2005, arguing to overcome the references used.

Response to Arguments

2. Applicant's arguments about the original limitations have been fully considered, but are not persuasive, for reasons given next.

3. As per claims 6-9, 16-19, and 26-29, the applicant argues that Davis et al. (U.S. 6,728,950) do not disclose a "master text file" and thus do not disclose "importing a translated text file corresponding to the text file." (Amendment, page 2). However, Davis et al. a master file that discloses a plurality of files (see page 3 of the previous office action). In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a master text file which serves as a basis for multiple translation of the source language text phrases therein.) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

4. As per claims 1, 11, and 21, the applicant argues that Davis et al. and Elsbree et al. are not analogous art because they do not even share the PTO classification (Amendment, page 3).

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The examiner notes that references do not have, necessarily, to share the same class in order to be analogous. Furthermore, the applicant later states that both references, Davis et al. and Elsbree et al. belong to the same art of "translating code between source code and machine executable code"(Amendment, page 2). Within the same page, applicant argues that machine executable program codes are different from text phrases. The examiner disagrees and notes that machine executable program codes are in the form of text phrases. Therefore, Claims 1, 11, and 21 are rejected for the same reasons as set in the previous office action.

5. There being no further specific argument to overcome the rejection of claims 2-4, 5, 10, 12-14, 15, 20, 22-24, 25, and 30, beside they are being dependant on independent claims 1, 6, 11, 16, 21, and 26. Therefore, claims 2-4, 5, 10, 12-14, 15, 20, 22-24, 25, and 30 are rejected for the same reasons as set in the previous office action.

6. Amendment, page 4, the applicant argues that "There is no suggestion, express or implied, in the prior art to make such a combination" and "the level of skill in the art cannot be relied upon to provide the suggestion to combine references. *Al-Site Corp. v. VSI Int'l Inc.*, 174 F.32 1308 (Fed. Cir. 1999)". The examiner notes that the level of skill does not act as bridge over gaps in substantive presentation of obviousness case. In addition, an invention can not be held to be obvious unless a suggestion to combine prior art teaching is found in a specific reference. Such suggestion or motivation to combine prior art can derive solely from the existence of a teaching, which one of ordinary skill in the art would be presumed to know, or the

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use of that teaching to solve the same or similar problem. It is not necessarily that the cited references or prior art specifically suggest making the combination.

Accordingly, Davis et al. and Elsbree et al. are not required to disclose or specifically suggest particular elements. Instead the measure is what the teachings of Davis et al. and Elsbree et al. would suggest to one of ordinary skill in the art, not what they specifically suggest.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

8. Claims 6 - 9 (method), 16 - 19 (system), and 26-29 (program) are rejected under 35 U.S.C. 102(e) as being anticipated by Davis et al. (US 6,728,950, filed May 1, 2001).

9. As per claims 6, 16, and 26 Davis et al. disclose: A translation system that combines apparatus, method and program (the translation system 10 includes a data storage 12, a translation tool 14, and a graphical user interface (GUI) 16.... The computers may each be a

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personal computer, file server, work station, minicomputer, mainframe, or any other suitable device capable of processing information based on programming instructions, column 3, lines 40-49). The translation system comprises:

- A master text file (The data files 20 include a source file 24, one or more source include files 26, a translation file 28, and one or more translation include files 30, column 4, lines 15-17);
- A source and a target language files stored in separate files within the database (the source and the translation files may be for disparate source and target devices or disparate formats for a same device, column 2, lines 16-18);
- Translated text files that include one or more target language text phrases (elements) (The translation file 28 includes translation elements that correspond to the source elements. Column 4, lines 40-42);
- A notification flag is communicated in the case of an incomplete (or incorrect) translation (the red octagon indicates an error situation where the translation is known to be incorrect, impossible, or beyond the limits of the translator, column 8, lines 54-56).

10. As per claim 7, 17, and 27 Davis et al do not teach a method, system, and program for storing an identification number corresponding to the source language text phrase within the database. However, it is inherent that a translation system comprises files with identification numbers or codes within its database in order to retrieve it to serve the purpose of accomplishing translation.

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11. As per claims 8, 9, 18, 19, 28 and 29 Davis et al. teach setting a flag within the database as a notification (the source window 74 icons include a red octagon for an error situation, column 8, lines 49-50).

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 1 (method), 11 (system), and 21 (program) are rejected under 35 U.S.C. 103(a) as being unpatentable over Davis et al. (US 6,728,950, issued April. 27 2004 as a division of application No 09/429, 339, filed on October. 28, 1999) in view of Elsbree et al. (U.S 6, 360, 358 issued in March. 19, 2002 as a continuation of application No. 09/266, 621, filed on March. 11, 1999).

Davis et al. disclose

- A translation system that combines apparatus, method and program (the translation system 10 includes a data storage 12, a translation tool 14, and a graphical user interface (GUI) 16.... The computers may each be a personal computer, file server, work station, minicomputer, mainframe, or any other suitable device capable of processing information based on programming instructions, column 3, lines 40-49).

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- The translation system comprises a data file that discloses the source and target language text phrases (The data files 20 include a source file 24, one or more source include files 26, a translation file 28, and one or more translation include files 30, column 4, lines 15-17)

Davis et al. do not disclose:

- Storage of a modified version of the source language text phrase.
- A notification of incorrect translation based on the modification of the first source language text phrase.

Elsbree et al., however, disclose a system, method, and a program that stores the source code and a modified version of the source code (upon a change event (e.g., such as modification to the source code), column 1, line 57,58), detects, and notify the user of the modification of the source code (text phrase) (When the change occurs, the development tool sends a change notification, column 7, line 14, 15).

Davis et al. and Elsbree et al. are analogous art because they are from the same field of translation and notifying the user of any change in the source text phrase. Elsbree et al. teach the translation of a source code that could be read by a computer. Furthermore, Elsbree et al's teaching are applicable to Davis et al's translation system.

It would have been obvious to a person of ordinary skill in the art at the time of the invention, to have added to Davis et al. translation system the ability of updating and detecting changes in the source language, in order to provide an accurate up-to-date translation.

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14. Claims 2-4, 12-14, and 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davis et al. in view of Elsbree et al. as applied to claims 1, 11, and 21 above, and further in view of McKeeman et al. (U.S 5,193,191 issued in March. 9, 1993).

15. As per claims 2, 12, and 22 neither Davis et al. nor Elsbree et al. teach time stamp for tracking data storage.

However, McKeeman et al. teach storing a plurality of time stamps (Fig. 6b) to indicate the time of last change of each application module.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to have added McKeeman et al's time stamp feature (Fig. 6b) to Elsbree et al. code maintenance system (column 1, line 47) to track the source code updating time and use it in the Davis et al. and the Elsbree et al. translation system for the benefit of providing a correct and accurate translation.

16. As per claims 3, 4, 13, 14, 23, and 24, neither Davis et al. nor Elsbree et al. teach setting a flag within the database as a notification of the modification of the source text phrase.

However, McKeeman et al. teach setting a bit (flag) within the database as a notification of the modification of the source text phrase (a special bit 48 associated with each line or record called the modify bit which is used to indicate whether a particular line of source text has been modified, column 10, lines 58-61)

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to have added McKeeman et al's notification bit feature (column 10, line 58) to

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Elsbree et al. code maintenance system (column 1, line 47) to track the source code updating time and use it in the Davis et al. and the Elsbree et al. translation system for the benefit of providing a system that notifies its users of any change within its database.

The examiner takes official notice that it would have been obvious to a person of ordinary skill in the art to compare time stamps to make sure that the latest version is translated (or the previous translation appropriately changed).

17. As per claims 5, 15, and 25, it would have been to a person of ordinary skill in the art at the time of the invention that for a translation system as described in the teachings above (claims 1, 11, and 21) one should store a copy of the new source language text phrase in the translated text file every time the source language is updated, in order to indicate a need for adding new translated portions in the target text.

18. Claims 10, 20, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davis et al.

According to the argument used for claims 7, 17, and 27 it will be impossible for such a system to provide translation if entries of target language text phrases within its database fail to include the identification number. Therefore, it would have been obvious to a person of ordinary skill in the art to have a copy of the source language stored in the translated text file to enable updating of the translation.

Conclusion

19. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Abdelali Serrou whose telephone number is 571-272-7638. The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Talivaldis Smits can be reached on 571-272-7628. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

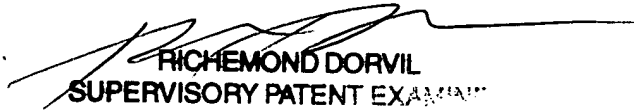
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

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applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Abdelali Serrou

06/28/05


RICHMOND DORVIL
SUPERVISORY PATENT EXAMINER